

**TOWN OF BENNETT, COLORADO
BOARD OF TRUSTEES
Regular Meeting
September 8, 2020**

1. CALL TO ORDER

The Board of Trustees of the Town of Bennett met in regular session on Tuesday, September 8, 2020 virtually via Zoom Link. Mayor Royce Pindell called the meeting to order at 7:00 p.m. The following persons were present upon the call of the roll:

Mayor: Royce Pindell

Trustees Present: Darwin Harrell
Whitney Oakley
Rich Pulliam
Denice Smith
Donna Sus

Staff Present: Trish Stiles, *Town Administrator*
Rachel Summers, *Deputy Town Administrator*
Taeler Houlberg, *Assistant to the Town Administrator*
Alison Belcher, *Public Relations Coordinator*
Sara Aragon, *Community Development Coordinator*
Deb Merkle, *Community Development Manager*
Dan Giroux, *Town Engineer*
Daymon Johnson, *Public Works Director*
Robin Price, *Assistant Public Works Director*
Steve Hebert, *Planning and Economic Development Manager*
Lynette White, *Economic Development Coordinator*
Melinda Culley, *Kelly P.C., Town Attorney*
Christina Hart, *Town Clerk*

Public Present: Harvey Deutsch, Jody Alderman, Allen Rutherford, Garrett Walsted, Nichole Harrell, Michael Blumenthal, Kathy Smiley, George Rowley

2. PLEDGE OF ALLEGIANCE

The Pledge of Allegiance was led by Mayor Royce Pindell.

3. APPROVAL OF AGENDA

MAYOR PRO TEM HARRELL MOVED, TRUSTEE PULLIAM SECONDED to approve the agenda presented.
The voting was as follows:

YES: Harrell, Oakley, Pindell, Pulliam, Smith, Sus

NO: None

Mayor Royce Pindell declared the motion carried by unanimous vote.

4. CONSENT AGENDA

MAYOR PRO TEM HARRELL MOVED, TRUSTEE PULLIAM SECONDED to approve the consent agenda as presented.

YES: Pindell, Pulliam, Smith, Sus, Harrell, Oakley

NO: None

Mayor Royce Pindell declared the motion carried by unanimous vote.

A. Approval of Minutes

Action: Approval of August 24, 2020 Special Meeting Minutes.

Action: Approval of August 25, 2020 Regular Meeting Minutes.

PUBLIC COMMENTS ON ITEMS NOT ON THE AGENDA

There were no public comments.

5. REGULAR BUSINESS

A. Action/Discussion Items

1. Damron Utility Easement

Trish Stiles, Town Administrator reported to the Trustees the Town of Bennett has received a formal request from the Bennett Metropolitan District for condemnation for an easement for a utility line. The request for condemnation is to install public improvements which will include a sanitary sewer line west from Bennett Ranch to the Bennett sewer treatment plant. The line crosses the Bennett School District property and property belonging to Jimmie and Cynthia Damron.

Bennett Ranch representatives Michael Blumenthal, Harvey Deutsch, and their attorneys Jody Alderman and George Rowley provided an introduction to the Trustees. The Bennett Ranch engineer Garrett Walsted was also present. Mr. Blumenthal explained an easement has been obtained from the school district and an easement agreement has been reached between Bennett Ranch and the Damrons. Selene Finance of Houston, Texas is the lien holder (lender) for the Damrons property. The Bennett Metropolitan District sent the lender a \$1250.00 processing fee, but the easement approval could take months and delay the entire development. The lender is a very large and unresponsive loan servicer company. The Damrons have also tried, unsuccessfully, to obtain the release of the easement. The easements are requirements for the subdivision agreement.

Ms. Stiles, Town Administrator reported to the Trustees the current service plan does not contemplate powers for condemnation. An amendment to the Metro District Service Plan would be required to achieve the condemnation.

Jody Alderman, attorney representing Bennett Ranch, reported to the Board of Trustees the condemnation is referenced in the Intergovernmental Agreement (IGA). The recommended first step would be to amend the IGA. The Metro District would be requesting a very limited use of imminent domain power in order to clear off the lenders interest of the easement area on the Damron property. The Metro District would then proceed with the condemnation. An offer letter and notice would be required to be sent to Jimmie and Cynthia Damron. After a reasonable amount of time passed, the District would file the petitioning condemnation and then (hopefully) the bank will respond. If the bank does not respond, the easement request would be heard by the court.

Harvey Deutsch reported to the Trustees the requested easement is 60' Wide approximately eight tenths (.80) of an acre on the edge of the Damron property.

The Town of Bennett would not incur any costs as a result of the condemnation.

Mayor Pro Tem Harrell asked Town Attorney, Melinda Culley what the Town's roll is for the process of condemnation is very limited. Per the approved service plan, if the Metro District would request or exercise imminent domain, the District would be required to come before the Board of Trustees with the request. The Boards roll would be to grant approve or deny the request. The liability to the Town is making the decision is very limited. There should be no issues from the lender.

Trustee Smith asked for clarification on the condemnation vs imminent domain. Town Attorney, Melinda Culley explained that both condemnation and imminent domain provides power to the District to "condemn" the lenders interest in the easement area. The definition of condemnation and imminent domain mean the same thing in this situation. Michael Blumenthal explained the reason for the easement request is to install utilities underground on the Damron property. The property will be restored to its original appearance. The Damrons would not be allowed to place any permanent structure on the easement, because the easement will require maintenance. Trustee Smith also inquired about the type of lien on the property. Ms. Alderman explained the lender holds a deed of trust to secure the loan on the entire property. The security interest would remain on the remainder of the property.

Trustee Pulliam asked if the IGA could be amended in a way that would allow the condemnation of this particular, highly defined piece of ground. Ms. Culley responded by affirming the amendment would only effect the IGA, not the service plan. If the developer would want to exercise any additional condemnation, they would be required to come before the Trustees for any other request.

Mayor Pindell expressed concern of imminent domain. He also expressed concern the Town of Bennett could set a precedent with future Metro Districts. Ms. Culley explained this request would not set a precedent. The request from Bennett Ranch Metro District is a very specific request. Ms. Culley also stated that the Bennett Ranch Metro District has exhausted all other avenues to obtain the easement on the Damron property. Mayor Pindell also asked if Jimmie

and Cynthia Damron have been contacted. Ms. Stiles explained the Town has not made contact with the Damrons. Ms. Stiles recommended finalizing an amendment to the IGA before contacting the Damrons. Mr. Blumenthal shared with the Trustees that he has been the main point of contact with the Damrons. The Damrons have agreed to grant the easement and would be compensated \$70,000.00.

Trustee Sus asked if the Damrons were represented at the September 8, 2020 board meeting. Mr. Deutsch reported that moving forward the Damrons would be included so they can answer any questions or provide comments to the Trustees.

Trustee Oakley voiced concern that the Damrons and/or their attorney were not present at tonight's meeting.

Trish Stiles, Town Administrator asked for direction from the Trustees if the Board would like to move forward with drafting an amendment to the IGA allowing for condemnation of the lien for the easement. This would be brought back to the Board for action. The Damrons will be contacted and encouraged to be present at that meeting.

Melinda Culley reported to the board no formal motion is required for direction, but rather confirmation by a nod of the head or thumbs up. Action would be taken in a future board meeting.

Mayor Royce Pindell confirmed Trustee Pulliam, Mayor Pro Tem Harrell, Trustee Sus, Trustee Smith, and Trustee Oakley all gave thumbs up.

Staff was provided direction by the Trustees to draft an amendment to the IGA for the condemnation of the easement.

2. Bennett Crossing, Filing 1 and 3 Stormwater Impact Fee Waiver Request

Dan Giroux, Town Engineer, reported the request for the stormwater impact fee waiver for filing 1 and 3 effect the commercial subdivisions. This includes the east side of Hwy 79 from I-70 North to Edward Avenue. The developer is requesting the stormwater impact fees be exempt from the building permit fees in the development.

There is no financial payout only, but only a reduction of their impact fees.

Ms. Stiles, Town Administrator reported to the Board of Trustees there is a provision in the Bennett Municipal Code Chapter 4 Section 4-8-370 that address credit against impact fees. The developer and Staff reviewed the request and it was determined that the impact fee waiver request falls within the guidelines of the Code. The Board of Trustees requires approval.

TRUSTEE PULLIAM MOVED, MAYOR PRO TEM HARRELL SECONDED, to waive the Stormwater Impact Fee for building permits in Bennett Crossing Filings 1 and 3, affecting 79.933 acres of platted lots for sale and development, and potentially 64 acres of impervious area, amounting to up to 558 Stormwater Single Family Equivalent (SFE) impacts, at \$566/Stormwater Single Family Equivalent, for a total of 558 Stormwater Single Family Equivalents x \$566/Single Family Equivalent permits = \$315,828.00. Voting was as follows:

YES: Pulliam, Smith, Sus, Harrell, Oakley, Pindell

NO: None

Mayor Royce Pindell declared the motion passed by unanimous vote.

3. Trupp Park Phase IV – RFP 20-010

Robin Price, Public Works Director, reported to the Board of Trustees and RFP for Trupp Park Phase IV was posted on August 13, 2020 with a closing date of August 26, 2020. The Town of Bennett was awarded \$120,000.00 grant from Adams County Open Space with a local match of \$80,000.00 for a total project budget of \$200,000.00. The published project and scope include, but are not limited to design from Jimenez Design Group Landscape and Irrigation Plans. Terramax, Inc. provided the storm sewer design.

Staff received two proposals. The contractors who bid the project are Kuhn Construction for the Storm Sewer Design with an original bid of \$54,432.00. BrightView Landscaping bid \$219,801.00 for the landscape and irrigation improvements. The full plan of improvements are for irrigation, trees, plants, and landscape materials.

Mayor Pro Tem Harrell inquired about the fate of the skate bowl. Robin Price confirmed the skate bowl would be filled in with concrete as part of the Trupp Park Phase IV project.

Mayor Pindell asked about lighting. There are currently two lights, which do not work, in the Trupp Park parking lot. They will be replaced with two solar lights the Town already has possession of. The same type of lighting found in the Town Hall parking lot.

TRUSTEE PULLIAM MOVED, MAYOR PRO TEM HARRELL SECONDED to authorize the Mayor and the Town of Bennett to sign a standard Town Construction Contract Agreement with Kuhn's Construction, Inc. for the Trupp Park Phase IV Storm Sewer Design Bid of \$54,432.00 and an additional amount of \$5,850.00 for 75 tons of white landscape cobble for a total contract amount not to exceed \$60,282.00. And;

To authorize the Mayor and the Town of Bennett to sign a standard Town Construction Contract Agreement with BrightView Landscaping Services for a valued engineered bid for Trupp Park Phase IV including irrigation, a reduced quantity of Boulders and a reduced quantity of trees and shrubs, in an amount not to exceed \$80,000.00. Voting was as follows:

YES: Smith, Sus, Harrell, Oakley, Pindell, Pulliam

NO: None

Mayor Royce Pindell declared the motion passed by unanimous vote.

4. Brothers Four Playground

Robin Price, Public Works Director, reported to the Board of Trustees, Staff solicited professional design and construction bids from proven playground contractors for the Brothers Four Playground Grant. The Town was awarded an Adams County Open Space Grant in the amount of \$82,800.00 with a local match of \$55,200.00 allowing for a total project budget of \$138,000.00. The project and scope includes, but are not limited to replace the existing playground and rubber surfacing.

The contractor responses received were from A to Z Recreation and Star Playgrounds. The proposed playground equipment within the proposals are:

1. A to Z Recreation - Red and Green Farmhouse Design- Original Bid \$120,000
2. A to Z Recreation - Nucleas Blue and Red Design Original Bid \$120,000
3. Star Playgrounds - Blue Blocks Design- Original Bid \$119,999
4. Star Playgrounds - Green and Purple Play Structure Original Bid \$119,966.

Both companies provided the designs and pricing to fit the budget of the current grant. Town staff narrowed the original four designs down to three designs and posted on the Town of Bennett social media outlets for community input. The community poll was open for 6 days and received 247 votes, the results from the community poll are:

- Option 1-Blue Blocks received 25% of the votes
- Option 2-Red and Green Farmhouse 41% of the votes
- Option 3- Green and Purple Play Structure 34% of the votes

Trustee Smith expressed concerns regarding vandalism on the equipment because the equipment provides many hiding places that could invite the potential for unlawful activity.

Trustee Oakley stated the farmhouse playground design seems to be geared to the younger age group. Trustee Oakley respects public input, but does not feel as though this design is the best for the long term.

Trustee Pulliam stated that option 3 green and purple play structure appears to provide a more challenging exercise opportunity.

Alison Belcher, Community Relations Coordinator, explained the community liked the farmhouse appearance, which complements the community. The farmhouse structure is designed for the 5 to 12 age group.

Mayor Pindell asked about the age of the Brothers Four Playground equipment. Ms. Stiles reported it was installed around the mid 2000's. The current equipment has a fracture. The rubber surfacing was installed in 2011-2012.

Town Staff was provided direction, by the Board of Trustees, to revisit the Brothers Four Playground equipment design and return to the Board of Trustees with a new design that reflects the desires of the Trustees as well as the public.

6. TOWN STAFF REPORTS

Town Administrator

Trish Stiles, Town Administrator provided the following report;

- Four applications have been received for the Trustee vacancy. Interviews will take place during the September 22, 2020 board meeting. Applications received are from:
 - Bridgette Cumley
 - Allen Rutherford
 - James Grider Lee
 - Larry Vittum
- An outline of the updated Comprehensive Plan is currently being drafted. Staff will present during an October 2020 board meeting.
- Working on the renewable water contract.
- Transportation improvements
 - RFP is out for Exit 304 project
 - Signalization design; working with CDOT on Marketplace Drive
 - Notice to Proceed (NTP) on Muegge Way
- Progress on Public Work Facility
- Progress on at grade water storage tank; Staff working on best path forward.
- Bennett Regional Park and Open Space Pond easement repurposing; met with landowner and they are prepared to move forward.
- Code Enforcement tour; Trish Stiles, Rachel Summers and Deb Merkle. A Code Enforcement presentation will come before the Trustees on September 22, 2020.
- Bennett Days September 12, 2020; parade will kick off at 3:00 p.m.
- The Town received an additional allocation of \$40,000.00 from Arapahoe County from the CARES Act Fund.
- Flu vaccine clinic will be available on September 24, 2020 at Town Hall. The vaccine will be available to Town Staff, Board of Trustees, and Commissioners.
- Baby Ruvalcaba should be arriving very soon.
- Daymon Johnson has been promoted to Capital Improvement Project Director
- Robin Price has been promoted to Public Works Director
- Oscar Ruvalcaba has been promoted to Assistant Public Works Director

Public Works Director

Robin Price, Public Works Director, provided the following report;

- Tree replacement at Brothers Four and Shared Services
- Rock installation at Bennett Regional Park and Open Space (BRPOS)
- Drip line will be re-installed at Antelope Hills to the trees along the berm.
- Irrigation around the pavilion at Brother Four
- Centennial Drainage is pending final cleaning and sod repair
- Utility standards updates and backflow prevention program
- State Highway 79 and Civic Park drainage and trail project
- Crack Sealing of the roads
- 5th and 6th alley repair
- Robin commented that Ricky Martinez passed his collection 3 test. Way to go Ricky!

Capital Improvement Project Director

Daymon Johnson, Capital Improvement Project Director provided the following report;

- The reuse construction water project is slated for completion by the end of the week of September 14, 2020.
- Well eight is currently working manually. The sign filter is not working properly. Continue to investigate.
- Well three is back on line.
- Mr. Johnson North Municipal Complex core and shell; another package will be sent out for new pricing. The package will be sent to Lafever and Building by Design.
- Utility Standards; making progress. Will present to the Trustees in the very near future.

7. TRUSTEE COMMENTS AND COMMITTEE REPORTS

Royce Pindell

Mayor Royce Pindell reported on the following:

- Commander Smalley, Adams County Sheriff, believes the new traffic patterns at the Bennett School is working well.
- Thank Staff for all their hard work and organization leading up to Bennett Days.
- Fireworks will be scheduled for a later date this year.

Denice Smith

Trustee Smith reported on the following;

- Who takes care of the property owners trees if they are dead or hanging over onto the roadway? Ms. Stiles commented it is the responsibility of the property owner.
- Has there been any discussion or feedback on installing flashing lights at the existing crosswalk by Independent Bank on Centennial Drive across Highway 79 to Brothers Four? Ms. Stiles commented she would consult with Short Elliot Hendrickson, Inc. (SEH) on improvements.

Whitney Oakley

Trustee Oakley reported on the following;

- What are the expectations for the Board of Trustees for the Bennett Days parade on September 12, 2020? Ms. Stiles encouraged participation if the Trustees are available.

Donna Sus

Trustee Sus reported on the following;

- Could parents of Bennett School students volunteer to be crosswalk guards at Centennial Drive to the trail?

Darvin Harrell

Mayor Pro Tem Harrell reported on the following;

- Expressed his gratitude to Town Staff on their continued hard work.
- Can Code Enforcement calls be input into Smartsheets?
- How many people can currently congregate the Community Center? Ms. Stiles stated the maximum amount would be 13 based on the social distancing calculator.
- Can Staff perform CCIC inquiries for citations?

8. ADJOURNMENT

TRUSTEE SUS MOVED, TRUSTEE PULLIAM SECONDED to adjourn the meeting. The meeting was adjourned at 9:33 p.m. Voting was as follows:

YES: Harrell, Oakley, Pindell, Pulliam, Smith, Sus

NO: None

The Mayor declared the motion carried by unanimous vote.



Royce D. Pindell, Mayor



Christina Hart
Town Clerk